IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Delay Condonation Application No. 7134 of 2006
&
Restoration Application No.7129 of 2006
and

Writ Petition No. 1233 of 2005 (M/B)

Ganga Saran Jayant S/o Late Shankar Singh,
Presently posted as Branch Manager,
Central Bank of India, Ramnagar,
District Nainital. ……. Petitioners.

Versus

1. State of Uttaranchal.
2. Sarjeet Singh S/o Hazara Singh,
   R/o Village Etawwa, P.S. Bajpur,
   District Udham Singh Nagar.
3. Buddha Singh S/o Harnam Singh,
   R/o Village Etawwa, P.S. Bajpur,
   District Udham Singh Nagar.
4. Mahendra Singh S/o Magh Singh,
   R/o Village Bannakhera, P.S. Bajpur,
   District Udham Singh Nagar.
5. Jagir Singh S/o Magh Singh,
   R/o Village Bannakhera, P.S. Bajpur,
   District Udham Singh Nagar. ……. Respondents

Sri B.D. Kandpal, Advocate for the petitioner.
Sri H.C. Pande, A.G.A. for respondent no. 1.
Sri Sudhir Kumar, Advocate for respondent no.2.
None for respondents 3 to 5.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble Prafulla C. Pant, J.

RAJEEV GUPTA, C.J. (Oral)

Sri B.D. Kandpal, Advocate for the petitioner.

Sri H.C. Pande, Additional Government Advocate for respondent no. 1.

Sri Sudhir Kumar, Advocate for respondent no.2.

None for respondents 3 to 5.

They are heard.

CLMA No. 7134 of 2006

2. On due consideration, CLMA, No._7134 of 2006 is allowed and the delay in filing the appeal is hereby condoned.

CLMA No. 7129 of 2006

3. Petitioner is seeking restoration of the Writ Petition No. 1233 of 2005 (M/B), which was dismissed for want of prosecution vide order dated 21.02.2006.

4. On due consideration, we are satisfied that the absence of the petitioner's counsel on 21.02.2006, when the Writ Petition No.1233 of 2005 was taken up for hearing, was based on bonafide grounds. Therefore, CLMA No. 7129 of 2006 is allowed and the Writ Petition NO.1233 of 2005 is restored to its original number.

Writ Petition No. 1233 of 2005 (M/B)

5. Sri Pande, the learned Addl. Government Advocate submits that the writ petition filed by the petitioner Ganga Saran Jayant seeking quashing of the First Information Report and the case registered against him has now become infructuous as the police after completion of the investigation through filed charge sheet against the petitioner's co-accused Budh Singh but no case worth filing charge-sheet was made out against the petitioner and as such, no charge-sheet in proposed to be filed against the petitioner.

6. In this view of the matter, the writ petition is dismissed as infructuous.

(Prafulla C. Pant, J.) 27.06.2006

(Rajeev Gupta, C.J.) 27.06.2006

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